D.o.O/1

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

..

:: ORDER ::

Suchha Singh Vs. Vinod Kumar & Anr.

S.B. CIVIL WRIT PETITION NO.2459/2006.

Date of Order ::: 18th May 2006.

PRESENT

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Kishan Bansal }
Mr. J.S. Bhaleria }, for the petitioner.

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BY THE COURT:

Having heard learned counsel for the petitioner and having perused the material placed on record, this Court is satisfied that no case for interference under Article 227 of the Constitution of India is made out and this writ petition deserves to be dismissed without being admitted.

The non-petitioner (applicant) has filed an application under Section 6(2) of the Rajasthan Relief of Agricultural Indebtedness Act, 1957 ('the Act' hereafter) in relation to the debt said to be due against the petitioner (non-

applicant). After filing of the written statement by the petitioner, issues were framed and were amended; and evidence of the applicant was recorded. The petitioner-non-applicant moved an application on 17.10.2003 with the submissions that he has taken averments about his having made deposits with the applicant after selling the agricultural produce and the applicant having given him accounts from time to time. According to the petitioner, after taking up of the litigation, upon search he found a slip in the hand writing of father of the applicant in which an amount of Rs.1,60,000/- was stated to have been deposited as on 12.12.1996; and that earlier this slip was sought to be produced on 30.09.2002 but because of incorrect description of the title of the case, the application was returned and now the case was fixed for evidence and such account slip was required to be produced. The petitioner also contended that the slip being in the hand writing of the father of the applicant, there was no likelihood of the same being false or fabricated and it tallies with the accounts of the applicant.

The application aforesaid was contested, inter alia, on the ground that issues were framed on 10.11.2000 and were amended on 13.08.2002 but till that time, no such document was filed. It was also pointed out that the statement of the applicant has also been recorded and he has been

cross-examined in relation to the accounts but neither the document in question was produced nor the applicant was cross-examined in relation thereto. The document in question was also challenged as a forgery.

The learned Debt Relief Court, after considering all the facts and circumstances of the case, noticed that the averments regarding earlier filing of the application for production of document in question on 30.09.2002 was not supported by the record of proceedings. It was also noticed that the document does not carry signatures nor it was clarified as to when was it found by the petitioner ? It was also observed that during the entire evidence of the applicant, such document was never projected on record. The application was, therefore, rejected by the impugned order dated 13.09.2004 (Annex.1).

The order aforesaid was challenged in revision under Section 17 of the Act and the learned Additional District Judge, Sriganganagar (Camp Suratgarh), after considering the entire record of the case, endorsed the findings of the learned Debt Relief Court and found that there was no justification for taking the document on record and the Debt Relief Court committing no illegality in rejecting the application. The revision petition was accordingly dismissed by the impugned order dated 01.02.2006 (Annex.P/6).

Learned counsel for the petitioner has submitted that the written statement in this case was submitted prior to amendment brought about in the Code of Civil Procedure and while relying upon Paragraph 29 in the decision of this Court in Santveer Singh Vs. Addl. CJ, Hanumangarh & Anr. : (2004) 3 RLW (Raj.) 1952 learned counsel submitted that the document ought to have been taken on record. The contention is entirely misplaced.

It is not in dispute that the document in question was sought to be produced by way of application dated 17.10.2003 only after the evidence of the applicant was over. The learned Debt Relief Court has rightly observed that the document in question was not even projected on record during the entire evidence of the applicant and a late attempt on the part of the petitioner to supplement the record could not be countenanced.

It is also relevant to notice that the application has not been rejected merely with reference to the stage of the case but it has also been found by the courts below that the document in question even otherwise deserves not to be taken on record as it bears no signatures and has no probative value at all.

Even while dealing with the proceedings in the present case under the Act of 1957 where the procedure

provided by the Code of Civil Procedure (CPC) is applied as may be practicable, the learned Debt Relief Court has not denied the application on the ground that such application was not competent; or merely on the ground that the document in question was not referred in the list of documents. The application has been considered and rejected on merits and, therefore, the ratio in Paragraph 29 in the decision in Santveer Singh's case (supra), where the trial court was found to have proceeded on wrong premise while dealing with an application under Order 8 Rule 1A(3) CPC has no application to the present case.

The two courts below have proceeded squarely in conformity with the requirements of law and have rightly rejected the baseless application of the petitioner.

No ground for interference under Article 227 of the Constitution of India is made out. The writ petition is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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